

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

GUO ZHEN-WU, #A#70-892-616

Petitioner,

v.

2:06CV353

MARY F. LOISELLE, Field Office  
Director for Detention and  
Removal Operations, Bureau of  
Immigration and Customs Enforcement (BICE),

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2241. Petitioner alleges violation of federal rights because he had been unconstitutionally detained by Immigration and Customs Enforcement for more than ninety days and deprived of his liberty interest. Petitioner does not, in this proceeding, attack any underlying convictions.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 29 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. On September 13, 2006, the Magistrate Judge filed his report and recommendation, recommending dismissal of the petition due to petitioner's release from custody. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court has received no objections to the report and the time for filing same has expired. However, on September 22, 2006,

counsel for respondent notified the Magistrate Judge that the date petitioner was released from custody was September 8, 2006, instead of September 8, 2003, as reflected in the report and recommendation. On September 26, 2006, the typographical error was corrected in an amended report and recommendation.

The Court does hereby accept the findings and recommendations set forth in the report of the United States Magistrate Judge filed September 13, 2006, and it is, therefore ORDERED that the petition be DENIED and DISMISSED on the basis of petitioner's release from custody, rendering his claim MOOT, and that judgment be entered in respondent's favor.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within sixty days from the date of entry of such judgment. Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right." Therefore, the Court, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to the petitioner and to counsel of record for the respondent.

/s/ Jerome B. Friedman  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

October 24, 2006

